IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6799 of 2007()

AGAINST THE JUDGEMENT/ORDER IN BA.6473/2007 Dated 24/10/2007
CRMP.2689/2006 of ADDL.DISTRICT COURT-I,MAVELIKKARA
CRIME NO.142/2006 OF NOORANADU POLICE STATION.
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ACCUSED 2,3 AND 4:
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1. **JOY, S/O.KUNJAPPY, AGED 35**
   THANAPARAMBIL, PEROORKARAZHMA MURI,
   THAMARAKULAM VILLAGE, MAVELIKARA TALUK.

2. **SATHEESH KUMAR ALIAS BABU**
   AGED 26 YEARS, S/O.SIVANANDAN,
   KANNANAKUZHY MURI, THAMARAKKULAM VILLAGE,
   MAVELIKKARA TALUK.

3. **VIJAYAKUMAR ALIAS KUMAR, AGED 32 YEARS,**
   KUMAR BHAVANAM, VEDARAPLAVU MURI,
   THAMARAKKULAM VILLAGE, MAVELIKARA TALUK.

BY ADV. SRI.R.PADMAKUMAR

RESPONDENTS: COMPLAINANT:

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING BEEN FINALLY HEARD ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6799 of 2007

Dated this the 7th day of November, 2007

ORDER

Second application for anticipatory bail. An earlier application for anticipatory bail was dismissed by this Court as per Annexure-A2 order. On that day, there was no representation for the petitioners. But the order was passed on merits after considering the available inputs.

2. The learned counsel for the petitioners submits that a crucial fact was omitted to be brought to the notice of this Court when the earlier bail application was disposed of. The petitioners are accused 2 to 4. Accused 5 was granted anticipatory bail by the learned Sessions Judge, Mavelikkara. That fact was omitted to be brought to the notice of this Court. That may be reckoned as a change in the circumstance and the application may be considered afresh on merits. This in short is the plea raised by the learned counsel for the petitioners.

3. The learned Public Prosecutor submits that, that cannot be reckoned as a relevant circumstance at all. The said 5th accused has been found to be not involved in the crime and he has been dropped from the array of parties by the police.

4. I agree with the learned Public Prosecutor that no change in circumstance worth the name has taken place after the earlier disposal of the application for bail. I am satisfied that this fresh/second application for anticipatory bail does not deserve favourable consideration in these circumstances.

5. This application is, in these circumstances, dismissed. Needless to say that the observation in the earlier order that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously-on the date of surrender itself, shall remain.

(R.BASANT, JUDGE)

rtr/-